

FAX

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US Application No. 09/646764
PCT No. PCT/AU98/00199
Applicant: Peter Miller

Re. : Decision in response to the Applicant's on second petition to withdraw holding of abandonment PO Letter dated 26 August 2003

Quote:

1st paragraph under "BACKGROUND"

"the early procedural background for this application was set forth in the decision mailed by this Office on 20 April 2001. In that decision Applicant's 20 December 2000 petition to withdraw the first holding of abandonment was granted. The decision noted however, that applicant had not filed a complete declaration in compliance with 37CFR §1.497.

Specifically, the decision noted that the filed declaration was missing page 1. The decision directed the national stage processing branch of the Office of PCT Operations to issue a Notification OF Missing Requirements requiring applicant to submit a complete declaration and the surcharge for filing the declaration later than thirty months after the international filing date."

APPLICANT'S RESPONSE

- The decision 20 April 2001 did not specifically note that the filed declaration was missing page 1.
- The decision 20 April 2002 did not instruct the applicant to submit a complete declaration but "required submission of a declaration in compliance with 37 CFR §1.497"
- The Notification of Missing Requirements allegedly forwarded on 03 May 2001 and received as a copy for first time on 2 September 03 by the Applicant purports to instruct that the current oath or declaration does not comply with CFR 1497 (a)(b) for reasons indicated in attached PCT/DQ/EU/917. This was not included in the PO mail with mailing date 26 August 2003 meaning that the Applicant has still not received the official notification with details of the alleged non-compliance! For the Applicant this is proof that the purported PO mail with date 03 May 2001 was in fact not forwarded and the Applicant will persist in this opinion until the PO brings proof of the contrary. The Applicant still maintains that the Declaration (PTO/SB/01) already completed and forwarded with the Application fully complies with the 37 CFR 1.497 including (a)(4).

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